

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Kyle & Brigid Greening,
Petitioners-Appellants,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0447
Parcel No. 291/00367-350-002

On December 21, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Kyle and Brigid Greening were represented by Kevin Huerkamp, of Iowa Assessment Advisors, Urbandale, Iowa. The Polk County Board of Review designated Assistant County Attorney Ralph E. Marasco, Jr. as its counsel. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Kyle and Brigid Greening are the owners of a residential, single-family property located at 12821 Hazelwood Drive, Clive, Iowa. The property is a two-story home, built in 1993, and has 2550 square feet of total living area. The property has a full, unfinished basement. Additionally, the dwelling has a 911 square-foot, three-car, attached garage; an 80 square-foot open front porch; and two patios totaling 520 square feet. The site is 0.285 acres.

The Greenings protested to the Polk County Board of Review regarding the 2011 assessment of \$292,300, which was allocated as: \$60,200 in land value and \$232,100 in improvement value. They claimed that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a), and there is an error in the assessment under section

441.31(1)(c), stating the error as “192 square foot deck area is a patio – we have no deck area.” In the area of their equity claim on the form, the Greenings referenced an attached letter and documentation. The letter clearly outlined an assertion that the property was assessed for more than the value authorized by law under section 441.37(1)(b). The Greenings did not provide what they believed to be the correct value.

The Board of Review granted the protest, in part, reducing the total assessment to \$289,400, and corrected the deck/patio error.

Greenings then appealed to this Board reasserting their claims, and asserting the correct market value of their property is \$257,515, allocated as \$60,200 in land value and \$197,315 in improvement value. We do not believe the Greenings protest to the Board of Review was an equity claim because the letter attached to the protest form clearly sets out a market value argument and the properties listed on the form are all recent sales. Therefore, we will only consider the claim of over-assessment.

On their protest form to the Board of Review, the Greenings supplied the parcel number, address, sale date, and sales price of six properties. The form also referenced an attached statement and documentation.

		Sales Date	Price
291/003450-107-000	1530 NW 120th Street	8/10	\$265,000
291/00065-209-000	1250 Country Club Boulevard	10/10	\$280,000
291/00806-497-001	1621 NW 122nd Street	5/10	\$228,000
291/00065-480-045	2121 139th Street	5/10	\$247,500
291/00066-552-000	1625 NW 124th Street	5/10	\$288,080
291/00065-443-000	13560 Lakeview Drive	3/11	\$295,000

In their protest letter, the Greenings state they had an “independent, experienced real estate agent perform a value comparison with comparable homes, which sold in the last twelve months in our neighborhood...” The Greenings did not identify the real estate agent, and they did not supply the agent’s report. “Exhibit A” to their petition is a print-off from the Polk County Assessor website. It lists fifteen properties and has six of those fifteen circled. The six properties are those previously noted. The Greenings did not offer any comparison of these six properties to their property or adjust

for any differences to establish a market value for the subject. We note the Board of Review's "appraiser analysis" stated the first two properties on the Greenings' list of comparables were a foreclosure and a contract sale. These would be abnormal unless adjusted. Iowa Code § 441.21(1)(b).

The Greenings also supplied a property record card for a property located at 12802 Hazelwood Drive and their own property as part of their "Exhibit A" to the Board of Review. There is no explanation why they included the 12802 Hazelwood Drive property card other than it is situated across the street from their property.

"Exhibit B" was also attached and included property record cards for 13200 Sunset Circle, 13601 Lakeshore Drive, 1875 Country Club Boulevard, 1300 Country Club Boulevard, and 13181 Forest Circle. None of these properties were recent sales. In their letter, the Greenings state it was their belief that "assessments of many homes in our area have correctly reflected a stagnated realty market over the past several years, reverting back to 2003-2005 values," and they reference Exhibit B to support this assertion. Their attachments do show those properties' 2011 assessments have gone down and are currently around the assessed values of the 2003/2005 assessment years.

At hearing, the Greenings offered additional evidence. Real estate agent Kyle Huerkamp of Iowa Assessment Advisors in Urbandale, testified regarding the Greening property. Huerkamp referenced several photos of the subject property (Exhibits 1-11) to demonstrate that while well-cared for, the home was only of average quality and average condition.

Huerkamp presented Exhibits 15B through 15K, identifying them as nine comparable sales and one active listing in Huntington Ridge, the subject property's subdivision. Five of the sales occurred between June and September 2011, and the listing was put on the market in April of 2011. This information could be considered if there was a lack of sales to analyze and minimal market changes since the first of the year; however, sales of properties prior to January 1, 2011, would be more reflective of the value as of January 1, 2011. The remaining four sales occurred between June 2009 and August 2010. These sales prices were from \$305,000 to \$332,000, all higher than the subject

property's assessment. Huerkamp's objective was to demonstrate that these properties sold for less than their 2011 assessments.

Huerkamp included the four 2010 sales (Exhibits 15F through 15I) in a spreadsheet to arrive at a market value for the subject property. There were an additional five sales in the spreadsheet. The properties sold between October 2009 and May 2011.

Based on the pictures and data presented, they all appear to be reasonably similar properties. They had sales prices ranging from \$272,000 to \$332,000. While the sales are thoroughly described, in this case, the adjustments do not appear to be market oriented or supported. When questioned how he arrived at the adjustments, Huerkamp explained he used the assessor's cost numbers for the specific adjustments. He stated his adjustments were based on the costs from the subject property's assessment. Where he didn't have costs for the subject property, he substituted a comparable property's cost estimate. He also applied other atypical methodology in his adjustments.

As an example of the cost adjustments, Huerkamp made a \$1283 upward adjustment to one comparable for having a three-car garage that was 47 square feet smaller than the subject's three-car garage. When questioned if he believed this represented market actions, he indicated it was his belief that "a three-car garage was a three-car garage" and that he was simply applying costs to the differences similar to what the assessor's office did.

An example of his atypical methodology was adjusting main floor and second floor living areas at different rates. This methodology may be found in a cost analysis, but a sales analysis typically adjusts all above grade living area at a single rate.

We find Huerkamp's analysis in this case to be unorthodox and unreasonable. Essentially, Huerkamp blended the cost approach and sales comparison approach and arrived at figures that do not appear to have a correlation to the market. We do not consider this to reflect the market actions or result in supported conclusions of market value. As such, we give this data limited consideration.

Because we do believe these sales appear to be reasonable comparables, we have also considered the unadjusted range of values. Although we are typically hesitant to consider only unadjusted data, we do so here in an effort to ensure full consideration is given to the data provided by the Greenings. As previously noted the comparables on the spreadsheet had sales prices ranging from \$272,000 to \$332,000, with a median sales price of \$305,000. We note the subject's assessment of \$289,400 is at the lower end of this range and below the median. Although we give this analysis little consideration due to lacking adjustments for differences, in its raw nature it does not support the assertion that the subject property is over assessed.

Huerkamp also presented a spreadsheet of properties in the Huntington Ridge subdivision that protested their 2011 assessments and received relief from the Board of Review. Huerkamp asserted the subject property received only a 1% reduction at the Board of Review, whereas the average reduction in the area was 8.2%. None of the properties were sales; yet, Huerkamp adjusted each property as if he were completing a sales comparison approach to determine market value. And again, rather than using market based adjustments, it appears the adjustments were based on the assessor's costs. Market value is determined from sales prices, not from assessed values; and as previously noted, several adjustments are simply unreasonable using this method. While the information may be demonstrative of reduced assessments in the neighborhood, we do not consider this information relevant to a market value claim. A claim cannot be based solely on the amount of relief received by other properties.

The Board of Review did not provide any new evidence. It relied upon the certified record, which included an appraiser analysis that recommended a reduction to the Board of Review. The recommendation was based on the development of the cost and the sales comparison approach.

The appraisers cost analysis arrived at an opinion of value of \$289,400.

The appraiser's sales analysis compared five properties to the subject. They sold between June 2009 and August 2010. Their sales prices ranged from \$288,080 to \$340,000. We note without

exception, all five properties sold for less than their assessed values. After adjustments, the comparables had indicated values ranging from \$210,699 to \$302,797. The median adjusted sale price was \$274,679, and the appraiser's sales analysis concluded a value opinion of \$277,360. However, like Huerkamp's analysis, it is clear the appraiser's sales analysis relied on cost to make adjustments for differences. Moreover, while cost adjustments to market sales may be reasonable in some cases, in this case, the particular adjustments are not.

Because we do believe these sales appear to be reasonable comparables and to be consistent with how we analyzed Greenings sales, we have also considered the unadjusted range of values. Again, we are typically hesitant to consider only unadjusted data, and do so here in an effort to ensure full consideration is given to the data provided by the Board of Review. The Board of Review considered five properties with unadjusted sales prices ranging from \$288,080 to \$340,000, with a median sale price of \$320,000. We note the subject's assessment of \$289,400 is at the lower end of this range and below the median. Similar to the Greenings sales, we give this analysis little consideration due to lacking adjustments for differences; although in its raw nature it does not support the assertion that the subject property is over assessed.

Both Huerkamp and the Board of Review have evidence in the record of adjusted comparable sales, however the methodology used by both is irregular and does not demonstrate market actions or result in market values in this case.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is either inequitably assessed or over-assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).


In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Greenings submitted a sales comparison analysis. We find the properties selected are proximate and appear to be reasonably similar to the subject. However, the properties were adjusted using cost estimates rather than market derived adjustments and those adjustments likely lack any correlation to what the market would reflect, particularly the garage adjustments and first floor

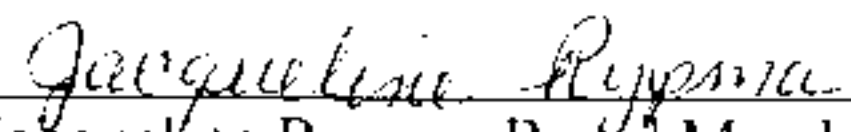
versus second floor values. In this case, we find this methodology does not result in a supported opinion of market value.

THE APPEAL BOARD ORDERS the assessment of Kyle and Brigid Greening's property located at 12821 Hazelwood Drive, Clive, Iowa, of \$289,400, as of January 1, 2011, set by the Polk County Board of Review, is affirmed.

Dated this 19 day of March, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-19</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature:	